

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

Yolany PADILLA, *et al.*,

Plaintiffs,

v.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT, *et al.*,

Defendants.

No. 18-cv-0928 MJP

**DECLARATION OF CAROLINA
ANTONINI**

I, Carolina Antonini, hereby declare:

1. I am an attorney licensed to practice law in Georgia. My business address is: 2751 Buford Highway, N.E. 8th Floor, Atlanta GA 30324. I am admitted to practice law in the State of Georgia.
2. I have been practicing immigration law for over twenty-two years. I am a partner in the firm of Antonini and Cohen. My practice exclusively involves immigration law. I am also an Adjunct Professor at Georgia State University, College of Law where I teach immigration law and procedure.
3. For the entire span of my career, I have represented hundreds of asylum seekers either in a pro bono or paid basis. I have also consulted and provided guidance to pro se asylum seekers. Asylum seekers are individuals who have expressed a fear

1 of return to their country of origins or an intention to apply for asylum to officials
2 in the Department of Homeland Security. Certain asylum seekers are entitled to a
3 credible fear interview before an asylum officer. The Asylum Offices have been
4 mostly inconsistent with the scheduling of credible fear interviews. In at least one
5 third of the cases I have seen, the asylum office fails to schedule credible fear
6 interview within 10 days after people have requested asylum or expressed a fear of
7 return. These cases take anywhere from 15 days to over one month for DHS to
8 schedule a credible fear interview. The delay has often resulted in prolonged
9 detention, a lack of confidence about the process by asylum seekers who often are
10 either despondent by the time their interview is scheduled and this affects their
11 performance during the interview or who simply give up and request to be
12 removed before their claim is heard. The delay also impacts the attorney-client
13 relationship when clients view delays as ineffective representation and not as a
14 systematic problem. In a handful of occasions, clients and I have appeared at the
15 local ICE office for credible fear interviews that were cancelled without
16 explanation. In one recent occasion, the client and I made four separate
17 appearances and never had the credible fear interview and the ICE officer was
18 forced to issue a Notice to Appear in regular removal proceedings and the case is
19 proceedings before the immigration court without an asylum office determination.
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- 23 4. Most of the detained asylum seekers that I have consulted or represented passed a
24 credible fear interview. A large number of them opt to abandon their claim and to
25 be deported when they are not released from detention after passing the credible
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1 fear interview. Their prolonged detention impacts their emotional state and
2 willingness to pursue protection, eliminates their belief that the process and limits
3 their ability to participate in their defense. Detention cuts them off from their
4 ability to contact witnesses and obtain supporting documents. Many would greatly
5 benefit from counseling that they cannot obtain while detained. Pro se individuals
6 are in a precarious situation as they are not familiar with asylum standards and do
7 not bring forth the relevant facts. They also are unfamiliar with the process of
8 requesting release on parole or bond.
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- 10 5. Bond hearings in Georgia can take from a few days to a couple of weeks to be
11 scheduled no matter the court. Georgia has three immigration courts, two in the
12 city of Atlanta and one in Lumpkin County. These courts hear bond matters from
13 the Folkston Detention Center, the Stewart Detention Center and the Atlanta City
14 Jail. I have met pro se litigants who did not figure out that they had bond rights
15 until after being detained for over one month. Most pro se bond requests that I
16 have seen have taken significant longer to schedule and adjudicate and have been
17 mostly denied. Detained pro se litigants are unable to access the witnesses and
18 documents required to establish that they are neither a flight risk nor a danger to
19 society. They also lack identity and supporting documents because their
20 documents are confiscated by CBP at detention. Those documents are supposedly
21 transferred to ICE and held in the litigant's file. ICE often does not make the
22 documents available to litigants during their bond hearing. Additionally, even
23 when ICE provides the documents, they are in a foreign language and without
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1 translation are not acceptable as evidence. Detained litigants are generally unable
2 to have documents translated. I have known of asylum seekers whose supporting
3 documents were confiscated by the detention officers and whose documents are
4 subsequently not found. Others must wait months to access them via a Freedom of
5 Information Act request.

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7 6. The harms of delayed bond and parole requests are significant: asylum seekers
8 become emotionally distraught. Their trust in the system weakens. Constantly
9 clients tell me that they are experiencing memory difficulties. Some clients are
10 emotional and breakdown, sometimes, inconsolably, making trial preparation
11 extremely difficult. They do not have their reference material in their possession
12 and cannot provide phone numbers, names and other vital information required for
13 the proper identification and preparation of witnesses and of persons who could
14 help obtain evidence from the home country. In my many years of representing
15 detained asylum seekers, every single one of them who gave up their claim did so
16 because of the detention.

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18 7. The asylum seekers must show that he or she will neither be a risk to the
19 community nor a flight risk. This is a difficult burden to meet for new arrivals. The
20 seeker bears the burden of proof and even when there is no evidence to contradict
21 a favorable finding, immigration judges deny the bond request because the seeker
22 was unable to mount a case. Pro se asylum seekers are also left to blindly prove
23 standards that they do not know exist and, even if they knew the standards, lack
24 the knowledge of legal presentation. In my experience, most asylum seekers who
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1 are denied bond are denied because they could not meet the legal burden placed
2 upon them. Immigration judges often do not articulate a decision for denying bond
3 unless there is an appeal to the Board of Immigration Appeals. Most bond denials
4 are not appealed, by represented or pro se litigants because those appeals mean
5 remaining in custody several months while the appeal is pending. I have had many
6 clients give up their claim and request deportation or voluntary departure because
7 they could not bear being detained for months while their bond denials are
8 reviewed and their asylum case is heard. Detained bond denial reviews can take 90
9 days or more. Often a bond appeal takes longer than the detained merits, forcing
10 asylum seekers to pursue their claim while detained and with insufficient
11 witnesses, documents and preparation. An ill-prepared case is more likely to fail.
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14 I declare under penalty of perjury of the laws of the State of Georgia and the United
15 States that the foregoing is true and correct to the best of my knowledge and belief. Executed
16 this 17 day of September 2018 in Atlanta, Georgia.

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18 By: 

19 Carolina Antonini
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